UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,183	06/26/2003	Christopher Forrest Harvey	694231/0043	7640

32361 7590 11/15/2006	**EXAMINER**	
GREENBERG TRAURIG, LLP	ALAM, UZMA	
MET LIFE BUILDING		
200 PARK AVENUE	**ART UNIT**	**PAPER NUMBER**
NEW YORK, NY 10166	2157	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/609,183	HARVEY ET AL.
	Examiner	Art Unit	
	Uzma Alam	2157	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11 September 2006</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-28</u> is/are pending in the application.

   4a) Of the above claim(s) <u>17,18 and 28</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-16b 19-27</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>26 June 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

This action is responsive to the application filed on June 26, 2006. Claims 1-28 are

pending. Claims 17, 18 and 28 are withdrawn from consideration because of a restriction

requirement. Claims 1-16, 19-27 represent a method for facilitating communication between

peer users.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

1.   Claims 1-16 and 19-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Parker et al. US Patent No. 6, 677, 976 (herein refererd to as "Parker") in view of Parker et al.

US Patent No. 6,545,697 (herein referred to as "Werner"). Parker teaches the invention as

claimed including establishing a communication session between separate users (see abstract).

Werner teaches the invention as claimed including a video teleconference (see abstract).

As per claim 1, Parker teaches a method for facilitating communication of an instant

message and an image to a first user from a second user, the method comprising:

associating the first user with a first user ID (identifying a user by a user ID; column 4,

lines 28-67; column 5, lines 1-10, column 5, lines 53-65; column 7, lines 56-67);

associating the instant message with the first user ID (sending the instant message to the

correct user based on the user ID; column 4, lines 59-67; column 5, lines 1-10; column 5, lines

53-65);

associating the image with the first user ID (column 4, lines 59-67; column 5, lines 11-

15; column 5, lines 53-65; column 7, lines 56-67);

causing the instant message to be communicated to the first user based on the first user

ID (sending the instant message to the first user based on the user ID; column 4, lines 59-67;

column 6, lines 13-30; column 7, lines 24-35); and

causing the image to be communicated to the first user based on the first user ID (linking

the image with the user based on the user ID; column 4, lines 59-67; column 6, lines 13-30;

column 7, lines 56-67);

wherein the first user is able to receive both the instant message and image from the

second user, the image being communicated at a frame rate (second user sending IM and images

to the first user; column 4, lines 59-67; column 6, lines 13-30; column 6, lines 3-30; column 6,

lines 55-67, image communicated at a frame rate, column 5, lines 10-15).

Parker does not teach at least one of said frame rate and said image quality being based

upon conditions of a communication path between said first user and said second user. Werner

teaches at least one of said frame rate and said image quality being based upon conditions of a

communication path between said first user and said second user. See column 5, lines 64-67 and

column 6, lines 1-4. It would have been obvious to a person of ordinary skill in the art at the

time of the invention to combine the video conference of Parker with the quality of Werner. A

person of ordinary skill in the art would have been motivated to do this to enhance

communication based on certain exchange parameters (column 5, lines 1-5). Also, Parker

suggests that the video telephony system is described in more detail in the copending

applications (see column 4, lines 59-62).

As per claims 9 and 19, Parker teaches a method for communicating images from a

broadcaster computer to a first viewer computer, the method comprising and a method for

passing by one or more application servers images from a broadcaster computer to a first viewer

computer, the method comprising:

initiating one or more server connections between the broadcaster computer and the first

viewer computer via one or more application servers, the connections for passing an image and

an instant message (going through a central server and requesting a session; column 5, lines 1-

15; column 5, lines 53-65; column 6, lines 3-30; column 6, lines 55-67);

receiving an indication to establish a peer-to-peer connection between the broadcaster

computer and the first viewer computer, the peer-to-peer connection for passing the image (the

central server allows the user to have direct communication; column 5, lines 1-55; column 5,

lines 53-65; column 6, lines 3-30; column 7, lines 1-15); and

routing the image over the peer-to-peer connection instead of the server connections,

thereby conserving bandwidth of the servers (sending all data across the direct connection;

column 5, lines 1-15; column 5, lines 53-65; column 6, lines 3-30).

Parker does not teach at least one of said frame rate and said image quality being based

upon conditions of a communication path between said first user and said second user. Werner

teaches at least one of said frame rate and said image quality being based upon conditions of a

communication path between said first user and said second user. See column 5, lines 64-67 and

column 6, lines 1-4. It would have been obvious to a person of ordinary skill in the art at the

time of the invention to combine the video conference of Parker with the quality of Werner. A

person of ordinary skill in the art would have been motivated to do this to enhance

communication based on certain exchange parameters (column 5, lines 1-5). Also, Parker

suggests that the video telephony system is described in more detail in the copending

applications (see column 4, lines 59-62).

As per claim 2, Parker teaches the method of claim 1, wherein the second user uses a

broadcaster computer and the first user uses first viewer computer, the method further

comprising:

receiving a request to initiate one or more server connections between the broadcaster

computer and the first viewer computer, the connections for passing the image (going through a

central server and requesting a session; column 5, lines 1-15; column 5, lines 53-65; column 6,

lines 3-30; column 6, lines 55-67);

facilitating a peer-to-peer connection between the broadcaster computer and the first

viewer computer, the peer-to-peer connection for passing the image (the central server allows the

user to have direct communication; column 5, lines 1-55; column 5, lines 53-65; column 6, lines

3-30; column 7, lines 1-15); and

facilitating communication of the image over the peer-to-peer connection instead of the

server connections, thereby conserving bandwidth of the servers (sending all data across the

direct connection; column 5, lines 1-15; column 5, lines 53-65; column 6, lines 3-30).

As per claim 3, Parker teaches the method of claim 2, further comprising: receiving

control data for the image from the broadcaster computer (column 7, lines 24-35).

As per claims 4, 12 and 22 Parker teaches the method of claims 2, 11, and 19, wherein a

third user uses a second viewer computer, further comprising, after passing the image from the

broadcaster computer to the first viewer computer:

passing a request to view the image from a second viewer computer to the broadcaster

computer (sending a request to a central computer to a user; column 6, lines 30-54; column 7,

line 1-15; column 8, lines 31-67); and

facilitating the reestablishing of a first server connection between the broadcaster

computer and the first server computer for passing the image in response to receiving the second

viewer computer request (column 6, lines 30-54; column 7, line 1-15; column 8, lines 31-67);

and

facilitating a second server connection between the broadcaster computer and the second

viewer computer for passing the image, thereby permitting both the first viewer computer and

the second viewer computer to receive the image (column 6, lines 30-54; column 7, line 1-15;

column 8, lines 31-67).

As per claims 5, 13, and 23, Parker teaches the method of claims 4, 12 and 22, wherein

the reestablishing is in response to the broadcaster computer receiving approval from the

second user (column 6, lines 13-30; column 8, lines 1-15, lines 23-36).

As per claims 6, 14 and 24 Parker teaches the method of claims 5, 12 and 22, wherein the

third user is on an approved list (column 6, lines 13-30; column 8, lines 1-15, lines 23-36).

As per claims 7, 15 and 25 Parker teaches the method of claims 4, 11 and 22, further

comprising: maintaining the peer-to-peer connection during existence of the server connection to

the second viewer computer; terminating the second server connection; and facilitating the

passing of the image over the peer-to-peer connection in response to termination of the second

server connection (maintaining a direct connection between two users; column 6, lines 55-67;

column 7, lines 1-15; column 8, lines 37-52).

As per claims 8 and 26, Parker teaches the method of claims 1 and 25, further

comprising: associating a second user ID with the second user; wherein causing the instant

message to be communicated to the first user is further based on the second user ID (column 6,

lines 30-54; column 8, lines 1-15, 23-36).

As per claim 10, Parker teaches the method of claim 9, wherein the server connections

with the application servers are for passing control data for the image (sending packet header

information; column 6, lines 31-54).

As per claims 11 and 16, Parker teaches the method of claims 10 and 15, wherein the server connections are further for passing an instant message (column 8, lines 1-15).

As per claim 20, Parker teaches the method of claim 19, further comprising: receiving control data for the image from the broadcaster computer (sending packet header information; column 8, lines 37-52)

As per claim 21, Parker teaches the method of claim 20, further comprising: passing an instant message from the broadcaster computer to the first viewer computer (column 8, lines 37-50).

As per claim 27, Parker teaches a method for communicating a series of images from a broadcaster computer to a first viewer computer via one or more application servers, the method comprising: passing a first image of the series of images from the broadcaster computer to the first viewer computer; and detecting whether an indication from the first viewer computer as to whether the first image has been received; and passing a second image of the series of images if the first image has been received (column 5, lines 1-15; column 6, lines 4-11; column 8, lines 53-65).

Response to Arguments

2.   Applicant's arguments with respect to claims 1-16, 19-27 have been considered but are moot in view of the new ground(s) of rejection.

3.   Applicant argues that Parker cannot be used to form a basis for 103 rejection. In

response to that argument, Parker suggests that the video telephony system is described in more

detail in the copending applications (see column 4, lines 59-62).

4.   Applicant argues that as per claims 4, 12, and 22, Parker does not teach a second viewer

computer. Parker however teaches that communication can be set up by the central server

between any users (see column 7, lines 15-34). At any time any user can be either "user 1" or

"user 2." Therefore Parker teaches a second viewer computer.

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. .Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this
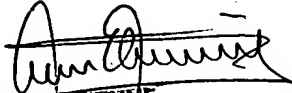
final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uzma Alam whose telephone number is (571) 272-3995. The examiner can normally be reached on Monday-Tuesday 5:30 AM - 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Uzma Alam
Ua
November 7, 2006

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER